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IN THE SUPREME COURT OF THE STATE OF IDAHO

SAINT ALPHONSUS REGIONAL
MEDICAL CENTER,

Plaintiff-Appellant,

vs.

ADA COUNTY SHERIFF GARY RANEY,
in his Official Capacity, ADA COUNTY,
and THE BOARD OF ADA COUNTY
COMMISSIONERS,

Defendants-Respondents.

Docket No. 45016

(Ada County District Court
Case No. CV-OC-2015-5002)

APPELLANT'S BRIEF-IN-CHIEF

APPELLANT'S BRIEF-IN-CHIEF

Appeal from the District Court of the Fourth Judicial District
of the State of Idaho, in and for the County of Ada

The Honorable Richard D. Greenwood, District Judge, Presiding

Bryan A. Nickels
DUKE SCANLAN & HALL, PLLC
1087 W. River Street, Suite 300
P.O. Box 7387
Boise, ID 83707
Telephone (208) 342-3310
Facsimile (208) 342-3299
ban@dukescanlan.com

*Attorneys for Saint Alphonsus
Regional Medical Center*

Ada County Prosecuting
Attorney's Office, Civil Division
Attn: Sherry A. Morgan
Joseph D. Mallet
200 W. Front Street, Room 3191
Boise, ID 83702
Telephone (208) 287-7700
Facsimile (208) 287-7719
smorgan@adaweb.net
jmallet@adaweb.net

Attorneys for Ada County

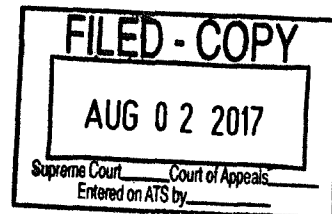


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I. STATEMENT OF THE CASE

A. Nature of the Case

This case ultimately involves only one question: whether Defendants-Respondents Ada County Sheriff Gary Raney, Ada County, and the Board of Ada County Commissioners (collectively, “Ada County”) are responsible for the costs of medical care of an inmate-patient injured while in the custody of the Ada County Sheriff, but who is released from custody while still hospitalized so that he can continue to receive medical care. Plaintiff-Appellant Saint Alphonsus Regional Medical Center (“Saint Alphonsus”) submits that, pursuant to Idaho Code §20-605 & §20-612 (which incorporates §20-605), Ada County is responsible for medical services provided after an inmate-patient’s release from custody.

Specifically, Saint Alphonsus seeks review of the District Court’s ruling on the parties’ cross-motions for summary judgment. There, the District Court held that Ada County was not responsible for the costs of medical care for an inmate released from custody for the purpose of securing additional medical care. Saint Alphonsus contends that, in so ruling, the District Court misinterpreted the governing statutes and erroneously ruled that the release from custody of an inmate-patient needing medical care thereby relieved Ada County of its obligation to pay for that inmate’s medical care. Saint Alphonsus requests reversal of the District Court’s summary judgment decision.

B. Course of the Proceedings

Saint Alphonsus brought this action against Ada County via a Verified

Complaint for Declaratory Judgment and Complaint for Damages on March 26, 2105, which Complaint was subsequently amended. (Record ("R."), 7-31 & 32-24.)

Following discovery, cross-motions were filed by Ada County and Saint Alphonsus on August 16 and 17, 2016, respectively. (R., 53-54 & 115-116.) Hearing upon the cross-motions was held on September 14, 2016. (Transcript ("Tr."), 6-64.) The District Court's Memorandum Decision and Order on Cross Motions for Summary Judgment was filed on October 25, 2016. (R., 259-268.) The Judgment was filed on March 2, 2017. (R., 269-270.)

Saint Alphonsus timely filed its Notice of Appeal on April 11, 2017. (R., 271-275.)

C. Concise Statement of the Facts

On January 21, 2014, I.C-T. (hereinafter "Patient"), was charged with domestic battery or assault in the presence of a child, Idaho Code §18-918(4), in the Fourth Judicial District of the State of Idaho, in and for the County of Ada, Case No. CR-MD-2014-0000913 ("First Criminal Case"). (R., 33 at ¶5; 17; & 45 at ¶5.) The Patient was arraigned by video before the Ada County magistrate on January 21, 2014. (R., 33 at ¶6; 45 at ¶6.) He entered a not guilty plea and a bond of \$1,000 was set. (*Id.*) At the time of arraignment, he was in the custody of the Ada County Sheriff and incarcerated at the Ada County Jail. (*Id.*) He remained incarcerated at the Ada County Jail from that time through March 27, 2014. (*Id.*)

On March 27, 2014, while still incarcerated at the Ada County Jail and in the Ada County Sheriff's custody, he was charged with three counts of sexual abuse of a minor under sixteen years of age, Idaho Code §18-1506, in a separate criminal

matter in the Fourth Judicial District of the State of Idaho, in and for the County of Ada, Case No. CR-FE-2014-0004295 ("Second Criminal Case"). (R., 34 at ¶7; 45 at ¶7.) On that same date, March 27, 2014, the Patient attempted to commit suicide by hanging himself. (R., 34 at ¶8; 45-46 at ¶8.) He was then transported to Saint Alphonsus in critical condition on that same date to receive care and treatment. (*Id.*; R., 169-170, ¶¶6-7.) Ultimately, due to the seriousness of the injury, he required care and treatment until May 24, 2014, when he was then discharged and released from Saint Alphonsus's care. (R., 170-174 at ¶¶8-18.)

In the interim, a pre-trial conference in the First Criminal Case had been scheduled for April 3, 2014. (R., 34-35 at ¶10; 22; 46 at ¶10.) In the Magistrate Minutes/Notice of Hearing, Magistrate Judge Theresa Gardunia noted that the patient was recently charged with another felony and, while in custody, attempted suicide and was still in the hospital. (*Id.*) The Magistrate Judge noted that the State moved to "ROR" on that day, and an Order of Release was entered the same date (April 3, 2014). (R., 34-35 at ¶10; 22-23; 46 at ¶10.) The pre-trial conference was then reset for thirty days out. (R., 34-35 at ¶10; 22; 46 at ¶10.)

Also in the interim, on April 4, 2014, a Deputy Prosecuting Attorney for Ada County filed an Ex-Parte Motion to Release Defendant on His Own Recognizance in the Second Criminal Case. (R., 34 at ¶9; 19-20; 46 at ¶9.) It provided the following:

A Complaint and Warrant were served on the Defendant, but before he could be arraigned on the charges, the Defendant attempted suicide. The Defendant is currently in critical condition at St. Alphonsus Hospital connected to a breathing tube. The State has been informed that the hospital personnel hope to transfer the Defendant to another facility at this time and unable to determine if he will make a full recovery. The State anticipates that releasing the Defendant ROR at

this time will allow his family to make necessary medical decisions and facilitate the transfer of the Defendant. The State intends to immediately seek reinstatement of the bond should the Defendant's condition improve to the point where he can be released from a medical care facility and arraigned on the current charges. The Defendant's speedy trial rights have not begun to run as he has yet to be arraigned.

(*Id.*) An Order of Release was signed by Magistrate Judge James Cawthon and entered that same date. (R., 34 at ¶9; 21; 46 at ¶9.)

On May 5, 2014, a Deputy Prosecuting Attorney for Ada County filed a Motion to Dismiss without Prejudice of the Second Criminal Case. (R., 35 at ¶11; 24-25; 46 at ¶11.) It provided the following:

A Complaint and Warrant were served on the Defendant, but before he could be arraigned on the charges, the Defendant attempted suicide. The Defendant was in critical condition at St. Alphonsus Hospital connected to a breathing tube, and although he has somewhat physically improved, he is still housed at the hospital. The State has been informed that the hospital personnel hope to transfer the Defendant to Mexico for long-term care through the Mexican consulate. At this time it is unknown when or even if the Defendant will ever be competent to stand trial. The Defendant is in the country illegally and St. Alphonsus is eager to have him transferred to his native country. Should the Defendant return to the United States or be found competent to stand trial, the State anticipates refiling the charges.

(*Id.*) An Order to Dismiss without Prejudice was then entered on May 8, 2014. (R., 35 at ¶11; 26; 46 at ¶11.) On May 8, 2014, the State also moved to dismiss the First Criminal Case, and the Court dismissed it on that date. (R., 35 at ¶12; 46 at ¶12.)

The Patient ultimately incurred \$304,374.92 in medical expenses/bills during his stay at Saint Alphonsus from March 27, 2014 through his discharge on May 24, 2014. (R., 35-36, at ¶13; 27-31; 46-47, at ¶13.) These medical expenses/bills were submitted to Ada County for payment. (*Id.*) The Ada County Sheriff paid for the medical care and treatment provided by Saint Alphonsus through the date on which

both orders for Release on his Own Recognizance were entered (April 4, 2014). (*Id.*) Despite a demand from Saint Alphonsus for payment on the remaining dates of service, the Ada County Sheriff has refused to make any further payments relating to the remaining medical services even though the Patient required care and treatment at Saint Alphonsus through May 24, 2014. (*Id.*) The remaining unpaid balance as is in dispute in this matter, as reduced to the reimbursement rate specified in Title 31, Chapter 35, Idaho Code, is \$97,835.18. (*Id.*)

II. ISSUES PRESENTED ON APPEAL

Saint Alphonsus identifies the following issues on appeal:

Whether the District Court erred in holding that Ada County was not responsible for the medical expenses incurred for the medical care and treatment rendered by Saint Alphonsus to Patient from April 5, 2014 through May 24, 2014, and thereby granting summary judgment in favor of Ada County.

III. ATTORNEY FEES ON APPEAL

Saint Alphonsus only seeks an award of costs pursuant to I.A.R. 40.

IV. SUMMARY OF ARGUMENT

The inmate-patient at the heart of this matter was in the custody of Ada County on multiple felony charges when he attempted suicide. He was brought to Saint Alphonsus at the direction of Ada County, and was subsequently released on his own recognizance on an ex-parte motion to the magistrate court, to allow the inmate-patient to continue receiving medical care. While Ada County paid for the medical services for the time period that the Patient remained in-custody, it refused to accept responsibility for the remaining dates of services through the Patient's

discharge following his release on April 4th.

As explained below, counties are generally charged, by statute (Idaho Code §31-3302), with responsibility for medical care expenses for individuals incarcerated in their jails; two more specific statutes (Idaho Code §20-605 & §20-612) address the particulars (including medical costs) of incarceration costs and payment therefor. In a 1993 decision by this Court which echoes the issues in this matter (St. Alphonsus Reg'l Med'l Ctr., Ltd. v. Killeen, *infra*), it was held that these statutes “collectively indicate that it is ultimately the sheriff’s responsibility to pay for prisoners’ medical expenses.” In doing so, this Court held that, under the then-existing versions of the statutes, that counties were responsible for all costs incurred for medical care, but only while the inmate was in-custody.

The Legislature amended the statutes the following year to address the result in *Killeen*. While still obligating the counties to pay for inmate medical care, it provided a trade-off of sorts to address the seemingly harsh outcomes in *Killeen* that impacted both parties (the counties and medical providers): instead of full payment of medical costs, counties would now only have to pay a reduced reimbursement rate such as paid in medical indigency matters, but counties would now remain on the hook for medical costs after inmates were released for the purpose of receiving medical care. These adjustments were expressly added to Idaho Code §20-605, and Idaho Code §20-612 was amended to cross-reference and incorporate the provisions of §20-605 regarding medical costs. Importantly, the Legislature did not amend these statutes to replace them with the more complicated and cumbersome medical indigency process.

In ruling upon summary judgment in this matter, the District Court held that §20-605 did not apply to Patient's post-release medical costs, finding that §20-605 only applied to inmates housed for the benefit of another county. In doing so, however, the District Court erred in not recognizing that the provisions regarding payment of medical costs (including payment for medical costs post-release) were expressly incorporated into the statute governing inmates (such as Patient) housed in the same county in which they are ordered to be held: §20-612. Further, the District Court erred in finding that post-release costs for same-county inmates were, instead, covered by Idaho's medical indigency program (Title 31, Chapter 35), an argument rejected by the *Killeen* court, a conclusion not otherwise altered by the Legislature's 1994 amendments.

For these reasons, as discussed further below, the District Court erred in its Memorandum Decision and Order on Cross Motions for Summary Judgment, which decision should be reversed and the matter remanded to the District Court.

V. STANDARD OF REVIEW

"In an appeal from an order of summary judgment, this Court's standard of review is the same as the standard used by the trial court in ruling on a motion for summary judgment." Infanger v. City of Salmon, 137 Idaho 45, 46-47, 44 P.3d 1100, 1101-02 (2002)(citation omitted). "All disputed facts are to be construed liberally in favor of the non-moving party, and all reasonable inferences that can be drawn from the record are to be drawn in favor of the non-moving party." *Id.* at 47. "Summary judgment is appropriate if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any

material fact and that the moving party is entitled to a judgment as a matter of law.” *Id.* “If there is no genuine issue of material fact, only a question of law remains, over which this Court exercises free review.” *Id.*

VI. ARGUMENT

A. Idaho Code §§20-605, 20-612, and 31-3302, and the *Killeen* decision.

1. The statutes at issue.

The determination of a county’s obligation to reimburse a hospital (here, Saint Alphonsus) for medical care provided to an inmate is set out in a number of statutes.

First, Idaho Code §31-3302(3) provides for the County’s general obligation to make such reimbursements:

31-3302. County charges enumerated. The following are county charges:

...

(3) The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail. Provided that any medical expenses shall be paid at the rate of reimbursement as provided in chapter 35, title 31¹, Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement.

In turn, Idaho Code §20-605 addresses how a County is to specifically address costs of confinement, including medical costs, as follows in salient part:

20-605. Costs of confinement. The county wherein any court has entered an order pursuant to section 20-604, Idaho Code, shall pay all direct and indirect costs of the detention or confinement of the person

¹ Chapter 35, Title 31 relates to Idaho’s medical indigency laws, which provides for the method by which providers are reimbursed for medical services provided to indigent county patients. For purposes of this appeal and the statutes at issue, the salient portion of the medical indigency laws referred to – the rate of reimbursement – is Idaho Code §31-3502(23), which defines the “reimbursement rate” applicable to medical indigency matters. At present, the “reimbursement rate” is 95% of the unadjusted medicaid rate.

to the governmental unit or agency owning or operating the jail or confinement facilities in which the person was confined or detained. ... In the absence of such agreement or order fixing the cost as provided in section 20-606, Idaho Code, the charge for each person confined or detained shall be the sum of thirty-five dollars (\$35.00) per day, plus the cost of any medical or dental services paid at the rate of reimbursement as provided in chapter 35, title 31, Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement; provided, however, that the county may determine whether the detained or confined person is eligible for any local, state, federal or private program that covers dental, medical and/or burial expenses. That person will be required to apply for those benefits, and any such benefits obtained may be applied to the detained or confined person's incurred expenses, and in the event of the death of such detained or confined person, the county wherein the court entered the order shall pay all actual burial costs. **Release from an order pursuant to section 20-604, Idaho Code, for the purpose of a person receiving medical treatment shall not relieve the county of its obligation of paying the medical care expenses imposed in this section. ...**

(emphasis added).²

Importantly – and key in this appeal – Idaho Code §20-612, next in turn, also directs the County to pay for medical services for inmates, by reference to §20-605:

20-612. Reception and board of prisoners. The sheriff must receive all persons committed to jail by competent authority except mentally ill persons not charged with a crime and juveniles. It shall be the duty of the board of county commissioners to furnish all persons committed to the county jail with necessary food, clothing and bedding, **and medical care as provided in section 20-605, Idaho Code**, and the board of county commissioners is authorized to pay therefor out of the

² As an aside, that the Patient was held per I.C. §20-604 (“Any district judge or magistrate may order a person confined or detained ... in any county or municipal jail or other confinement facility within the judicial district in which the court is located.”) is obvious (R., 17), given the “any” language of the statute and this Court’s recent emphasis on applying laws as plainly written. Verska v. Saint Alphonsus Reg’l Med. Ctr., 151 Idaho 889, 895, 265 P.3d 502, 508 (2011)(“[W]here a statute or constitutional provision is plain, clear, and unambiguous, it ‘speaks for itself and must be given the interpretation the language clearly implies.’”); *accord*, Hoffer v. Shappard, 160 Idaho 868, 882, 380 P.3d 681, 695 (2016)(“ This Court does not have the authority to modify an unambiguous legislative enactment.”)

county treasury under such rules and regulations as they may prescribe.

(emphasis added).

As explained herein, these statutes make clear – contrary to the District Court’s determination – that counties are obligated to make payment for inmates’ medical care provided by providers such as Saint Alphonsus, even when those inmate-patients are released from custody to receive medical care.

2. The *Killeen* decision and subsequent amendment of the statutes at issue.

Underlying the question of the governing statute regarding reimbursement for medical care provided to a patient-inmate is the question of what reimbursement is owed when an inmate is released from custody to receive medical care. This question was previously presented to this Court in the case of St. Alphonsus Reg’l Med’l Ctr., Ltd. v. Killeen, 124 Idaho 197, 858 P.2d 736 (1993)(“*Killeen*”).

In *Killeen*, a somewhat factually similar case to the instant one, an individual was arrested on an Ada County bench warrant in Canyon County, and transported to Ada County. While in custody, the inmate required medical care and was brought to Saint Alphonsus; while still receiving care, she was released from custody on her own recognizance. A dispute between Saint Alphonsus and Ada County arose as to whether Ada County had to pay for all amounts incurred for medical care (including those costs incurred after the inmate-patient’s release from custody) and whether Idaho’s medical indigency laws (Title 31, Chapter 35) governed the reimbursement of medical care expenses to Saint Alphonsus.

Under the then-existing version of Idaho Code §31-3302, no reference was made to medical costs, but it did make the “county responsible for all expenses ‘necessarily incurred in the support of those persons in the county jail.’” 124 Idaho at 199. Because of this, the *Killeen* court concluded that it was “clear that Idaho law places on the county the financial responsibility for all persons maintained in the county jail.” *Id.*

In attempting to avoid responsibility for the medical costs, Ada County pointed to the then-existing version of Idaho Code §20-612, arguing that it was silent on medical expenses, thereby limiting the meaning of §31-3302. *Id.* However, the *Killeen* court concluded that the listed items in §20-612 was not an exclusive list, and did not limit §31-3302’s meaning. *Id.* The *Killeen* court further looked to the language of Idaho Code §20-605 (which did, at the time, specifically address medical costs), noting that it obligated a county from which a confinement order had issued to reimburse the actual costs incurred for the medical care of the inmate to the county that actually housed the prisoner. *Id.* The *Killeen* court went on to also note that Idaho Code §20-605 allowed for the determination of whether an inmate was eligible for outside benefits that might cover those costs, and requiring inmates to apply for such benefits so as to be applied to the inmate-patient’s incurred expenses. *Id.* In light of these provisions, the *Killeen* court found that Idaho Code §20-605 provided “guidance by analogy for finding that the county in which the prisoner is detained is obligated to pay and shows that the legislature contemplated that the county generally would pay medical expenses and then, in appropriate situations, be reimbursed.” *Id.*

Given this, the *Killeen* court ruled that Ada County was responsible for all medical costs incurred while an inmate was in custody:

We are sympathetic to Ada County's policy arguments against being responsible for medical expenses—the anomaly being that when an indigent is in jail, the hospital recovers more money than it would under the indigency scheme and the reality that the sheriff's office is not ordinarily so constituted to seek indemnity from other sources. Nonetheless, the statutes collectively indicate that it is ultimately the sheriff's responsibility to pay for prisoners' medical expenses. Re-allocation of that responsibility is within the province of the legislature.

Because the statutes provide that the sheriff and the county are responsible only for those in their custody, *a fortiori* the county need not pay for an inmate's medical expenses incurred after that person is no longer in custody. We thus affirm the trial court's judgment denying St. Alphonsus those medical expenses incurred after Edmonds was released on her own recognizance. Because of our disposition, we need not address the question of whether a contract for payment existed.

Killeen, 124 Idaho at 199. Thus, the primary outcomes in the *Killeen* decision were twofold: 1) the county was responsible for full reimbursement of the incurred medical expenses, but 2) only as long as the patient was actually in custody.

However, after *Killeen*, the key statutes at issue in both that matter and this matter – §31-3302, §20-612, & §20-605 – were variously amended, to ameliorate both of these outcomes. Reference to medical costs was woven into Idaho Code §31-3302 and §20-612 (itself referring to §20-605); §20-605 was amended to require payment for medical costs where an inmate was released to receive medical care; and §31-3302 and §20-605 were revised to save counties money by limiting payments to the reimbursement rate found in Idaho's medical indigency laws.

Specifically, the following amended language was added:

- Idaho Code §20-605:

In the absence of such agreement or order fixing the cost as provided in section 20-606, Idaho Code, the charge for each person confined or detained shall be the sum of thirty-five dollars (\$35.00) per day, plus the ~~actual~~ cost of any medical or dental services paid at the unadjusted medicaid rate of reimbursement as provided in section 31-3502(4), Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement; . . . Release from an order pursuant to section 20-604, Idaho Code, for the purpose of a person receiving medical treatment shall not relieve the county of its obligation of paying the medical care expenses imposed in this section.

- Idaho Code §20-612:

It shall be the duty of the board of county commissioners to furnish all persons committed to the county jail with necessary food, clothing and bedding, and medical care as provided in section 20-605, Idaho Code,
...

- Idaho Code §31-3302:

(3) The expenses necessarily incurred in the support of persons charged with or convicted of crime and committed therefor to the county jail. Provided that any medical expenses shall be paid at the unadjusted Medicaid rate of reimbursement as provided in section 31-3502(4), Idaho Code, unless a rate of reimbursement is otherwise established by contract or agreement.

(R., 146-147.)³ In light of these amendments, the two-fold primary outcomes from *Killeen* are no longer possible. Now, instead, 1) a county obtains the benefit of the lower reimbursement rate utilized in the medical indigency system, but 2) is still responsible for medical care when a patient-inmate is released for purposes of

³ These are the 1994 amendments. Additional amendments were made to Idaho Code §31-3302 and §20-605 in 2009 and 2011 to further harmonize the language regarding the actual rate of payment with that of the medical indigency program.

receiving medical care.

B. The District Court erred in failing to correctly apply Idaho Code §20-612.

The thrust of the District Court's decision was, simply, that §20-605 is inapplicable with respect to the Patient's care, because the Patient was no longer in custody at the time the medical care was provided, and because the patient was not housed in a different county:

Section 20-605 only applies to inmates housed in a different county. The question was decided in *Bannock County. v. City of Pocatello*, 110 Idaho 292, 715 P.2d 962 (1986). In that case, the Court was asked to decide whether the City of Pocatello was liable to Bannock County for incarceration costs at the Bannock County Jail. ... The Court explained:

"I.C. §20-604, as amended, enables a district judge or magistrate to order prisoners confined in any county jail in that judicial district, or in any other county if an agreement to that effect exists between the counties. *I.C. §20-605, as amended, defines which county is responsible for the cost of jailing the prisoners in another county.*"

Id. at 294 (emphasis added). Thus, the Court concluded: "A more reasonable alternative to the county's interpretation is that I.C. §§20-604, -605 and -606 are specific statutes which pertain only to the housing of prisoners in another county, while I.C. §20-612 applies to prisoners housed within the county." *Id.* at 295.

Here, it is undisputed that the Patient was both ordered confined and actually held in custody by Ada County. It is also undisputed that Ada County was responsible for the costs of medical care while the Patient was in custody. This is mandated under section 31-3302, as the Patient was a charge of the County. **This is also mandated by section 20-612, which applies to prisoners housed within their own county.** Section 20-605 simply does not apply.

(R., 264)(emphasis added). However, the District Court's analysis abruptly and inexplicably terminates here, without further analysis of §20-612.

Saint Alphonsus agrees that Idaho Code §20-605 governs out-of-county inmates, and that §20-612 governs same-county inmates. However, in this instance – and with any same-county inmates – §20-605 expressly governs reimbursement for medical costs because §20-612 specifically references I.C. §20-605 with respect to payment of medical costs:

20-612. Reception and board of prisoners. The sheriff must receive all persons committed to jail by competent authority except mentally ill persons not charged with a crime and juveniles. It shall be the duty of the board of county commissioners to furnish all persons committed to the county jail with necessary food, clothing and bedding, **and medical care as provided in section 20-605, Idaho Code**, and the board of county commissioners is authorized to pay therefor out of the county treasury under such rules and regulations as they may prescribe.

(emphasis added); see BHC Intermountain Hosp., Inc. v. Ada Cty., 150 Idaho 93, 96, 244 P.3d 237, 240 (2010)(“This Court has held that when one statute references another, only the portion that ‘*relates to the particular subject of the adopting act, and ... is applicable and appropriate thereto*’ is incorporated.”)(emphases in original); accord, In re Daniel W., 145 Idaho 677, 681, 183 P.3d 765, 769 (2008)(“Where one statute adopts the particular provisions of another by a specific and descriptive reference to the statute or provisions adopted, **the effect is the same as though the statute or provisions adopted had been incorporated bodily into the adopting statute.**”)(emphasis added)(*quoting Nampa & Meridian Irrig. Distr.,v. Barker*, 38 Idaho 529, 223 P. 529 (1924)).

Thus, Idaho Code §31-3302 provides the general recognition that counties are responsible for the costs of medical care provided to inmates in their custody, and Idaho Code §§20-605 and 20-612 specifically outline how such costs are going to be

covered and reimbursed for out-of-county inmates and in-county inmates, respectively. In turn, §20-612's reference and incorporation of §20-605 pulls over three significant provisions regarding medical costs: 1) utilization of the medical indigency reimbursement rate⁴; 2) securing reimbursement from inmates based upon potential benefits available to those inmates; and 3) most salient here, that a release from custody for medical care does not terminate a county's obligation to pay for such care. Thus, bluntly, by the plain language of §20-605 (as incorporated via §20-612), Ada County was obligated to pay for Patient's care after his release to receive additional medical care.

Accordingly, in light of the District Court's error in not finding that Idaho Code §20-605 was incorporated into §20-612 and thereby applicable to the medical care provided to the Patient post-release, the District Court's summary judgment decision should be reversed.

C. Idaho's medical indigency program does not supplant the County's obligation to pay for medical care for inmates.

In granting summary judgment to Ada County and denying Saint Alphonsus'

⁴ Which Ada County availed itself of in paying for Patient's in-custody care. Ada County contended that such reduced-rate payments were made based only upon §31-3302 (R., 253-254) rather than §20-605. Of course, §31-3302 is a general statute, broadly outlining costs for which counties are responsible; for example, §31-3302 advises that counties are responsible for "[t]he necessary expenses [for] the indigent sick ... whose support is chargeable to the county." §31-3302(7). Of course, the more specific statutes addressing the medical indigency process are exhaustively set out elsewhere, in Chapter 35 of Title 31. The County's position – that §31-3302 as a general statute prevails over more specific statutes – not only contradicts rote rules of statutory construction, but also cherry-picks what statutes Ada County prefers to have referenced and incorporated. *See, e.g., First Fed. Sav. Bank of Twin Falls v. Riedesel Eng'g, Inc.*, 154 Idaho 626, 632, 301 P.3d 632, 638 (2012) ("Where two statutes appear to apply to the same subject matter, the specific statute will control over the more general statute.") Ada County cannot, on the one hand, avail itself to the reference and incorporation of Title 31, Chapter 31 in §31-3302, but then refuse to acknowledge the reference and incorporation of §20-605 into §20-612.

cross-motion, the District Court also held that medical care for patient-inmates post-release would be governed under the medical indigency program:

The sheriff and the county remain responsible for the payment to prisoner medical care, indigent or not, but only at the Medicaid rate. If an indigent prisoner is ordered to be confined in his or her own county, then that county will still be liable for an indigent prisoner's medical costs after release, but through the indigency statutes, Idaho Code §31-3501 et seq.

(R., 266.) This is erroneous.

As discussed above, the amendments to the statutes at issue addressed the two primary outcomes of the *Killeen* case, regarding the rate of payment, and whether to reimburse for inmates released from custody. However, in *Killeen*, Ada County had also argued, as here, that the medical indigency program was the correct reimbursement process, an argument this Court rejected:

Ada County counters with its contention that the statutory scheme for obtaining reimbursement for medical services to indigents applies to *all* indigents, including those in the sheriff's custody, and that, in the instant situation of an indigent pre-trial detainee, that scheme is the mechanism by which the legislature intended care providers to seek payment. *See* Idaho Code tit. 31, ch. 35 (1983).

We agree with St. Alphonsus that the Idaho Code contemplates that when a person is in the sheriff's custody, whether indigent or not, the sheriff and custodial county are responsible for payment of medical expenses incurred.

...

We are sympathetic to Ada County's policy arguments against being responsible for medical expenses—the anomaly being that when an indigent is in jail, the hospital recovers more money than it would under the indigency scheme and the reality that the sheriff's office is not ordinarily so constituted to seek indemnity from other sources. Nonetheless, the statutes collectively indicate that it is ultimately the

sheriff's responsibility to pay for prisoners' medical expenses. Re-allocation of that responsibility is within the province of the legislature.

Killeen, 124 Idaho at 198-99. In fact, *Killeen* came to this Court on review from a Court of Appeals decision erroneously concluding (as the District Court similarly did here) that Idaho's medical indigency laws governed in-custody inmates' medical care, a conclusion rejected by this Court in *Killeen*. 124 Idaho at 200 ("Nonetheless, the statutes collectively indicate that it is ultimately the sheriff's responsibility to pay for prisoners' medical expenses."); *compare with* St. Alphonsus Regional Medical Center, Ltd. v. Killeen, 124 Idaho 221, 858 P.2d 760 (Ct. App. 1992).

Moreover, *Killeen* clearly notes that medical expenses are the obligation of the incarcerating county and not other Idaho counties, a holding that would otherwise be incompatible under Chapter 35 were Idaho's medical indigency program to apply. This is because under Chapter 35, an obligated county is only responsible for the first \$11,000 in medical bills, and the Catastrophic Health Care fund, which derives its funds from all counties in Idaho, would be responsible for all costs exceeding \$11,000. *See* I.C. §31-3502(5), -3503, -3503A, -3517.

Further, in addition to clashing with the holding in *Killeen*, imposition of the medical indigency process on providers such as Saint Alphonsus would impose additional burdens that are nowhere found in Title 20 and plainly not contemplated by the Legislature. As is made clear above, all that is envisioned under Title 20 is that if medical services are provided, then the jailing county will pay for such expenses even after a patient is released from custody. By instead insisting that

medical indigency is the correct course for inmate-patient post-release care, the District Court would instead incorrectly be forcing providers to undertake the burden of not only undertaking, but also proving, a medical indigency case (generously assuming cooperation by the inmate-patient in submitting needed information and documentation demanded by the County)⁵ – no small burden given the requirements of the medical indigency statutes (*see generally* Idaho Code §§31-3501 *et seq.*), and, again, something plainly not contemplated in §31-3302, §20-605, and/or §20-612.⁶

Thus, the District Court's conclusion that Idaho's medical indigency system supplanted the counties' payment obligations for post-release inmate-patients under Title 20 directly contradicts the plain language of the statutes at issue, and is in error, especially in light of this Court's rejection of a similar argument in *Killeen*.

VII. CONCLUSION

For the reasons stated above, the District Court's October 25, 2016 Memorandum Decision and Order on Cross Motions for Summary Judgment, granting summary judgment to Ada County, and, in turn, denying Saint Alphonsus'

⁵ A *prima facie* case for proving medical indigency has long been settled, and consists of (1) residency in the obligated county; (2) indigency from a standpoint of lack of resources; and (3) medical necessity of the treatment. Mercy Med. Center v. Ada County, 146 Idaho 226, 230, 192 P.3d 1050, 1054 (2008).

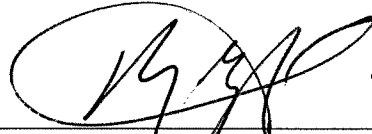
⁶ Further, under Idaho's medical indigency statutes, there is no guarantee (contrary to as suggested by the District Court) that the incarcerating county would, in fact, be the 'obligated county,' given that medical indigency determines the 'obligated county' based upon an analysis of duration of residency in a particular county. *See* Idaho Code §31-3506. Thus, for example, a Wallace resident, arrested and jailed in Ada County and then receiving medical care from Saint Alphonsus, would not result in payment from Ada County; instead, Saint Alphonsus would need to initiate medical indigency proceedings with Shoshone County.

motion for summary judgment, should be reversed and remanded to the District Court.

RESPECTFULLY SUBMITTED this 2nd day of August, 2017.

DUKE SCANLAN & HALL, PLLC

By

A handwritten signature in black ink, appearing to read "B. A. Nickels", is written over a horizontal line.

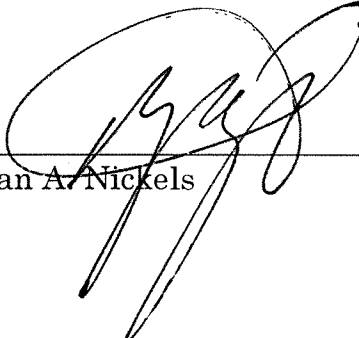
Bryan A. Nickels - Of the Firm
Attorneys for Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of August, 2017, I caused to be served a true copy of the foregoing document, by the method indicated below, and addressed to each of the following:

Ada County Prosecuting Attorney's Office
Civil Division
Attn: Sherry A. Morgan/Joseph D. Mallet
200 W. Front Street, Room 3191
Boise, ID 83702
Telephone (208) 287-7700
Attorneys for Defendants-Respondents

☐ U.S. Mail, Postage Prepaid
☒ Hand Delivered
☐ Overnight Mail
☐ Facsimile (208) 287-7719
☐ Email
smorgan@adaweb.net
jmallet@adaweb.net



Bryan A. Nickels